

## REMARKS

This Amendment and Response is submitted in response to the Office Action mailed 23 SEPTEMBER 2003. Withdrawal of the rejection and reconsideration with an eye toward allowance is respectfully requested.

### Claim Status

Claims 12-35 are pending after entry of the present amendment. Claims 12-20 stand rejected. Claims 12 and 17 are amended herein for technical clarity. Claims 15, 16, 19, and 20 are amended herein for agreement with amended independent claims 12 and 17. Claims 21-35 are added herein. A complete listing of all claims that are, or were in the application, along with an appropriate status identifier, is provided above in the section entitled "Amendments to the Claims". Markings are provided on claims amended in the present amendment.

Support for the above claim amendments can be found throughout the originally filed specification, drawings, and claims. For example, support for the amendments to claims 12 and 17 can be found at least on pages 10 and 20.

### Claim Rejections – 35 U.S.C. §102

Claims 12-16 were rejected under 35 U.S.C. §102(e) as being anticipated by Darago et al. (U.S. Patent Number 6,170,014).

Darago is directed to methods, devices, and systems provided in a multi-level computer architecture that provide improved capabilities for managing courseware and other content in a shared use operating environment (see Abstract).

In contrast, Applicant's amended claim 12 recites "a visual sub-system, functionally coupled to said memory and defining a three-dimensional display area, that simulates said image for said user such that a three-dimensional visual representation of said product appears in said display space".

For a reference to anticipate a claim, the reference must teach every element of the claim (see M.P.E.P. §2131).

Applicant respectfully submits that Darago fails to disclose every element of amended independent claim 12, including "a visual sub-system, functionally coupled to said memory and defining a three-dimensional display area, that simulates said image for said user such that a three-dimensional

visual representation of said product appears in said display space". Darago discloses a client workstation 114 able to present, to at least one registered user, courseware and/or other content which is served over the link 116 by the content server 110 (see col. 9, lines 8-11 and Figures 1 and 2). Applicant respectfully submits that Darago is limited to the disclosure of presenting content on a workstation, and does not disclose or suggest "a visual sub-system, functionally coupled to said memory and defining a three-dimensional display area, that simulates said image for said user such that a three-dimensional visual representation of said product appears in said display space". Accordingly, Applicant submits that claim 12 is patentable over Darago.

Claims 13-16 depend from and include all limitations of Applicant's claim 12. Accordingly, Applicant submits that claims 13-16 are patentable over Darago for at least the reasons discussed above with regard to independent claim 12. For these reasons, Applicant submits that the 35 U.S.C. §102(e) rejection of claims 12-16 over Darago is improper and should be withdrawn.

#### **Claim Rejections – 35 U.S.C. §103**

Claims 17-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Darago et al. and further in view of Manne (U.S. Patent Number 6,169,595), Fedrigon et al. (U.S. Patent Number 6,336,891) and Schneider (U.S. Patent Number 5,010,763).

Darago is discussed above.

Manne discloses a scent delivery system (see abstract).

Fedrigon discloses an interactive exercise pad system including stored data files including video files, optional audio files, and table files of location and terrain information. (see abstract)

Schneider is directed to a road simulation device for testing a driverless, stationary motorcycle (see abstract).

Applicants note that to establish a *prima facie* case of obviousness there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference teachings. Further, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See M.P.E.P. §2142).

First, Applicant submits that the Examiner has not provided a proper motivation to combine the reference teachings. The Examiner suggests that it would have been obvious to one skilled in the art to modify the disclosure of Darago to explicitly disclose different characteristics of a product, as disclosed by

the combination of Manne, Fedrigon and Schneider, for the motivation of facilitating and promoting the purchase of a product through a realistic simulation of the product (see office action, page 11). Applicant respectfully submits that none of the references provide this motivation. The Examiner's attention is respectfully drawn to In re Lee 61 USPQ2d 1430 (CA FC 2002). In this case, the Examiner rejected the claims under 35 U.S.C. §103 and stated that the required motivation "would be that the automatic demonstration mode is user friendly and functions as a tutorial". Id at 1435. The Federal Circuit stated that the Examiner did not adequately address the issue of motivation to combine. "This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority". Id at 1434. In the present case, Applicants submit that the Examiner has essentially used impermissible hindsight and 'common sense' to conclude that the combination of references leads to a method for facilitating and promoting the purchase of a product through a realistic simulation of the product. The Examiner is respectfully reminded that "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1780, 1784 (CAFC 1992).

Further, Applicant respectfully submits that the cited references, taken alone or in combination, fail to disclose all elements of Applicant's amended independent claim 17 including "simulating said product by generating a three-dimensional visual representation of said product". As discussed above, Darago is silent as to this feature. Applicant submits that Manne is further silent as to this feature, being instead directed to scent delivery. Applicant submits that Fedrigon is further silent as to this feature, being instead directed to an interactive exercise pad. Applicant submits that Schneider is further silent as to this feature, being instead directed to a road simulation device. The Examiner is respectfully reminded that the invention is to be considered as a whole. "Focusing on the obviousness of substitutions and differences, instead of on the invention as a whole, is a legally improper way to simplify the often difficult determination of obviousness" The Gillette Co. v. S.C. Johnson & Son, 16 USPQ2d 1923, 1927 (CAFC 1990). In the present application, Applicant respectfully submits that the Examiner has applied various references, each substituting a different characteristic recited in Applicant's claims and has not focused on the invention as a whole. Accordingly, for at least these reasons, Applicant submits that independent claim 17 is patentable over Darago, Manne, Fedrigon, and Schneider.

Claims 18-20 depend from and include all limitations of Applicant's amended independent claim 17. Accordingly, Applicant submits that claims 18-20 are patentable over Darago, Manne, Fedrigon, and Schneider at least for the reasons discussed above with regard to independent claim 17. The 35 U.S.C. §103(a) rejection of claim 17-20 over Darago in view of Manne, Fedrigon, and Schneider is therefore improper, and should be withdrawn.

Serial No.: 09/615,363  
Filing Date: 13 JULY 2000

#### New Claims

Applicant has added new claims 21-35. The new claims are further distinguished over the cited art at least because they depend from and include all limitations of Applicant's independent claims 12 or 17. Further, the added claims recite other features not disclosed by the cited art.

#### CONCLUSION

Applicants submit the claims are in condition for allowance, and notification of such is respectfully requested. If after review, the Examiner feels there are further unresolved issues, the Examiner is invited to call the undersigned at (415) 781-1989.

Respectfully submitted,  
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Filed under 37 C.F.R. §1.34(a)

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